## **HOUSE BILL No. 1010**

#### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-13.6-5-13; IC 5-16-12; IC 8-10-1-31; IC 8-23-9-59; IC 34-13-8; IC 36-1-12-22.

**Synopsis:** Public works projects. Provides that the plans, specifications, and contract documents for a public works project may not require bidders, contractors, or subcontractors to enter into or comply with certain agreements with labor organizations. Provides a cause of action to challenge the award of a contract that violates these provisions.

Effective: July 1, 2010.

## Torr, Borror

January 5, 2010, read first time and referred to Committee on Labor and Employment.





#### Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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### **HOUSE BILL No. 1010**

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:



awarded, or renewed after June 30, 2010.
1,2010]: Sec. 13. (a) This section applies to contracts entered into,
AS A $\ensuremath{\mathbf{NEW}}$ SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
SECTION 1. IC 4-13.6-5-13 IS ADDED TO THE INDIANA CODE

- (b) The plans, specifications, and contract documents for a public works contract awarded under this chapter may not do any of the following:
  - (1) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement with a labor organization on the same or a related public works project.
  - (2) Discriminate against a bidder, contractor, or subcontractor for refusing to enter into, remain signatory to, or comply with an agreement with a labor organization on the same or a related public works project.
  - (3) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement that requires an employee of the bidder, contractor, or subcontractor, as a condition of



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1	employment, to do either of the following:
2	(A) Become a member of or become affiliated with a labor
3	organization.
4	(B) Over the objection of an employee, pay dues or fees to
5	a labor organization that exceed the employee's share of
6	the labor organization's costs relating to collective
7	bargaining, contract administration, or grievance
8	adjustment.
9	(c) This section does not prohibit an employer or any other
10	person covered by the federal National Labor Relations Act from
11	entering into agreements or engaging in any other activity
12	protected by law. This section may not be interpreted to interfere
13	with the labor relations of persons covered by the federal National
14	Labor Relations Act.
15	SECTION 2. IC 5-16-12 IS ADDED TO THE INDIANA CODE AS
16	A <b>NEW</b> CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
17	1, 2010]:
18	Chapter 12. Prohibited Public Works Contract Requirements
19	Sec. 1. (a) This chapter applies to contracts entered into,
20	awarded, or renewed after June 30, 2010. This chapter applies to
21	the plans, specifications, and contract documents for a public
22	works contract awarded by a contracting agency.
23	(b) This chapter does not prohibit an employer or any other
24	person covered by the federal National Labor Relations Act from
25	entering into agreements or engaging in any other activity
26	protected by law. This chapter may not be interpreted to interfere
27	with the labor relations of persons covered by the federal National
28	Labor Relations Act.
29	Sec. 2. As used in this chapter, "contracting agency" refers to
30	the agency, board, commission, officer, or trustee that enters into
31	a public works contract covered by this article.
32	Sec. 3. Plans, specifications, and contract documents may not do
33	any of the following:
34	(1) Require a bidder, contractor, or subcontractor to enter
35	into or comply with an agreement with a labor organization
36	on the same or a related public works project.
37	(2) Discriminate against a bidder, contractor, or
38	subcontractor for refusing to enter into, remain signatory to,
39	or comply with an agreement with a labor organization on the
40	same or a related public works project.
41	(3) Require a bidder, contractor, or subcontractor to enter

into or comply with an agreement that requires an employee



1	of the bidder, contractor, or subcontractor, as a condition of
2	employment, to do either of the following:
3	(A) Become a member of or become affiliated with a labor
4	organization.
5	(B) Over the objection of an employee, pay dues or fees to
6	a labor organization that exceed the employee's share of
7	the labor organization's costs relating to collective
8	bargaining, contract administration, or grievance
9	adjustment.
0	SECTION 3. IC 8-10-1-31 IS ADDED TO THE INDIANA CODE
1	AS A <b>NEW</b> SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2	1, 2010]: Sec. 31. (a) This section applies to contracts entered into,
3	awarded, or renewed after June 30, 2010. This section applies to a
4	contract for the following:
5	(1) Altering, building, constructing, demolishing, improving,
6	or repairing a building or structure by the commission.
7	(2) Making an improvement to real property owned by, or
8	leased in the name of, the commission.
9	(3) Performing the routine operation, routine repair, or
20	routine maintenance of existing structures, buildings, or real
21	property by the commission.
22	(b) The plans, specifications, and contract documents for a
23	contract awarded by the commission may not do any of the
24	following:
25	(1) Require a bidder, contractor, or subcontractor to enter
26	into or comply with an agreement with a labor organization
27	on the same or a related public works project.
28	(2) Discriminate against a bidder, contractor, or
29	subcontractor for refusing to enter into, remain signatory to,
0	or comply with an agreement with a labor organization on the
1	same or a related public works project.
32	(3) Require a bidder, contractor, or subcontractor to enter
3	into or comply with an agreement that requires an employee
4	of the bidder, contractor, or subcontractor, as a condition of
55	employment, to do either of the following:
6	(A) Become a member of or become affiliated with a labor
57	organization.
8	(B) Over the objection of an employee, pay dues or fees to
9	a labor organization that exceed the employee's share of
10	the labor organization's costs relating to collective
1	bargaining, contract administration, or grievance
12	adjustment



(c) This section does not prohibit an employer or any other	
person covered by the federal National Labor Relations Act from	
entering into agreements or engaging in any other activity	
protected by law. This section may not be interpreted to interfere	
with the labor relations of persons covered by the federal National	
Labor Relations Act.	
SECTION 4. IC 8-23-9-59 IS ADDED TO THE INDIANA CODE	
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY	
1, 2010]: Sec. 59. (a) This section applies to contracts entered into,	_
awarded, or renewed after June 30, 2010.	
(b) The plans, specifications, and contract documents for a	
contract awarded by the department may not do any of the	
following:	
(1) Require a bidder, contractor, or subcontractor to enter	
into or comply with an agreement with a labor organization	
on the same or a related public works project.	
(2) Discriminate against a bidder, contractor, or	
subcontractor for refusing to enter into, remain signatory to,	
or comply with an agreement with a labor organization on the	
same or a related public works project.	
(3) Require a bidder, contractor, or subcontractor to enter	_
into or comply with an agreement that requires an employee	
of the bidder, contractor, or subcontractor, as a condition of	
employment, to do either of the following:	
(A) Become a member of or become affiliated with a labor	
organization.	
(B) Over the objection of an employee, pay dues or fees to	
a labor organization that exceed the employee's share of	1
the labor organization's costs relating to collective	
bargaining, contract administration, or grievance	
adjustment.	
(c) This section does not prohibit an employer or any other	
person covered by the federal National Labor Relations Act from	
entering into agreements or engaging in any other activity	
protected by law. This section may not be interpreted to interfere	
with the labor relations of persons covered by the federal National	
Labor Relations Act.	
SECTION 5. IC 34-13-8 IS ADDED TO THE INDIANA CODE AS	
A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY	
1, 2010]:	
Chapter 8. Enforcement of Certain Public Works Statutes	

Sec. 1. This chapter applies to contracts entered into, awarded,



1	or renewed after June 30, 2010.
2	Sec. 2. As used in this chapter, "applicable statute" refers to any
3	of the following:
4	(1) IC 4-13.6-5-13.
5	(2) IC 5-16-12.
6	(3) IC 8-10-1-31.
7	(4) IC 8-23-9-59.
8	(5) IC 36-1-12-22.
9	Sec. 3. As used in this chapter, "interested party" includes the
10	following:
11	(1) A bidder, contractor, or subcontractor for a public works
12	contract covered by an applicable statute.
13	(2) An employee of a bidder, contractor, or subcontractor for
14	a public works contract covered by an applicable statute.
15	(3) A taxpayer of an entity awarding a public works contract
16	covered by an applicable statute.
17	Sec. 4. An interested party has a cause of action to challenge the
18	award of a public works contract that violates an applicable
19	statute.
20	Sec. 5. Subject to section 6 of this chapter, an interested party
21	that prevails in an action under this chapter is entitled to the
22	following relief:
23	(1) A declaration that the provisions of the public works
24	contract that violate the applicable statute are void.
25	(2) Costs and attorney's fees.
26	(3) Any other appropriate relief requested by the interested
27	party.
28	Sec. 6. (a) This chapter does not prohibit an employer or any
29	other person covered by the federal National Labor Relations Act
30	from entering into agreements or engaging in any other activity
31	protected by law. This chapter may not be interpreted to interfere
32	with the labor relations of persons covered by the federal National
33	Labor Relations Act.
34	(b) Relief that would interfere with the labor relations of
35	persons covered by the federal National Labor Relations Act may
36	not be granted under this chapter.
37	SECTION 6. IC 36-1-12-22 IS ADDED TO THE INDIANA CODE
38	AS A <b>NEW</b> SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
39	1, 2010]: Sec. 22. (a) This section applies to contracts entered into,
40	awarded, or renewed after June 30, 2010.
41	(b) The plans, specifications, and contract documents for a

public works contract awarded under this chapter may not do any



1	of the following:	
2	(1) Require a bidder, contractor, or subcontractor to enter	
3	into or comply with an agreement with a labor organization	
4	on the same or a related public works project.	
5	(2) Discriminate against a bidder, contractor, or	
6	subcontractor for refusing to enter into, remain signatory to,	
7	or comply with an agreement with a labor organization on the	
8	same or a related public works project.	
9	(3) Require a bidder, contractor, or subcontractor to enter	
10	into or comply with an agreement that requires an employee	
11	of the bidder, contractor, or subcontractor, as a condition of	
12	employment, to do either of the following:	
13	(A) Become a member of or become affiliated with a labor	
14	organization.	
15	(B) Over the objection of an employee, pay dues or fees to	
16	a labor organization that exceed the employee's share of	
17	the labor organization's costs relating to collective	U
18	bargaining, contract administration, or grievance	
19	adjustment.	
20	(c) This section does not prohibit an employer or any other	
21	person covered by the federal National Labor Relations Act from	
22	entering into agreements or engaging in any other activity	
23	protected by law. This section may not be interpreted to interfere	
24	with the labor relations of persons covered by the federal National	
25	Labor Relations Act.	
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